

**REMARKS****Telephone Interview**

Applicants representatives wish to thank the Examiner for the courtesies extended during the telephone interview conducted on December 14, 2004 with Steve Roylance (Reg. No. 31,296) and Wesley Nicolas (Reg. No. 56,129). During the interview, Applicants suggested to change "preventive" to "prophylactic" in claims 4, 6 and 20. However, the Examiner indicated that the terms "preventive" and "prophylactic" have the same meaning and therefore the change would not overcome the rejection of claims 4, 6 and 20. Additionally, Applicants suggested changing "microbial infection" to "infection by microorganisms selected from *Pseudomonas aeruginosa* and bacteria having a genetically homologous drug efflux pump", but the Examiner requested that an amendment be submitted containing the language.

Upon entry of the above amendment, claims 4, 6-7, 20, 22, 25-28, 30, and 32 have been amended. Accordingly, claims 1-18, 20, 22, and 24-33 currently remain pending. Examiner has indicated that claims 1-3 and 5 are allowed.

**Summary of the Official Action**

In the instant Office Action, the following rejections are made:

- (i) Claims 4, 6-18, 20, 22 and 24-27 are rejected under 35 U.S.C. § 112, first paragraph.
- (ii) Claims 28-32 are rejected under 35 U.S.C. § 112, second paragraph.

Claims 4, 6-18, 20, 22 and 24-27 are rejected under 35 U.S.C. § 112, first paragraph because the specification, while being enabling for therapeutic treatment of a

microbial infection due to *Pseudomonas aeruginosa*, does not reasonably provide enablement for therapeutic and/or preventive treatment due to other organisms.

Further, the Examiner rejected claims 4, 6 and 20 because of the term "preventive", in that no compound has ever been found that can treat infections disorders generally.

Claims 28-32 are rejected under 35 U.S.C. § 112, second paragraph for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner stated that the claims do not cite "in need of" following "mammal."

#### Response

In response to the rejection, claims 4, 6-7, 20, 22, and 25-27 have been amended to replace "a microbial infection" with "infection by microorganisms selected from *Pseudomonas aeruginosa* and bacteria having a genetically homologous drug efflux pump." Support for this amendment can be found generally in the specification of the present invention, including page 2, lines 12-14. Additionally, claims 4, 6 and 20 have been amended to remove the "preventive" language. The amendments to the claims renders the 35 U.S.C. § 112, first paragraph rejection moot, and therefore the Examiner is respectfully requested to withdraw the rejection of claims 4, 6-18, 20, 22 and 24-27.

In response to the rejection of claims 28-32, claims 28, 30 and 32 have been amended to add "in need thereof" after "mammal." The amendment to the claims renders the 35 U.S.C. § 112, second paragraph rejection moot, and therefore the Examiner is respectfully requested to withdraw the rejection of claims 28-32.

By the present amendment and remarks, Applicants submit that the objections and rejections have been overcome, and respectfully request reconsideration of the outstanding Office Action and allowance of the present application.

#### **Authorization to Charge Deposit Account**

If for any reason a check including the amount for any necessary fees is not associated with this file, the undersigned authorizes the charging of any necessary fees, including any extensions of time fees, to Deposit Account No. 19-0089 in order to maintain pendency of this application.

#### **CONCLUSION**

The claims have been amended to eliminate any arguable basis for rejection under 35 U.S.C. § 112 and as such, the claims should be in condition for allowance.

Further, any amendments to the claims which have been made in this response and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

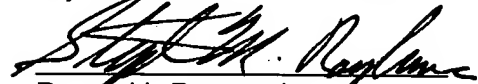
Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

Should the Examiner have any further comments or questions or if any issues remain which can be expeditiously resolved by a telephone conference, the Examiner is invited to contact the undersigned at the below-listed telephone number.

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Application No. 09/842,234

Respectfully submitted,  
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